

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

For Online Publication Only

**ORDER**  
19-CR-1 (JMA)

FRANK PARASMO,

Defendant.

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**APPEARANCES:**

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*Attorney for Defendant Frank Parasmo*

**AZRACK, United States District Judge:**

Defendant has moved to preclude testimony from the government's expert medical witness, Dr. Waldman, regarding any Federal or state regulations, or state statutes because they are not referenced in Dr. Waldman's report or the government's expert disclosure and are not charged in the indictment. (ECF No. 107.) Defendant's motion is **DENIED**.

To the extent Defendant argues that he did not have proper notice, the Court finds that argument is without merit. The government provided Defendant with Dr. Waldman's expert report and curriculum vitae in March 2019. (ECF No. 29.) On September 3, 2021, in response to Defendant's request and the Court's order to do so, the government provided Defendant with notice

of the federal and state statutes and regulations that the government intends to reference in the testimony of Dr. Waldman. (ECF No. 104.) The government's disclosure states that Dr. Waldman will testify regarding: 21 CFR 1308.12—Schedule II; 21 CFR 1306.04(a)—Purpose of Issue of Prescription; NYCRR 80.62—Use of Controlled Substance in Treatment; NYCRR 80.63—Prescribing; and NYCRR 80.65—Purpose of Issue. (*Id.*)

Moreover, courts in this District have found this type of testimony to be admissible. In a recent oxycodone distribution trial, the Honorable Joseph F. Bianco permitted Dr. Waldman to testify regarding the relevant regulatory framework and regulations as they relate to the practice of medicine. See Trial Transcript in U.S. v. Belfiore, 15-CR-242 (JFB) at 335-336 (Gov. Ex. A, ECF No. 120-1); see also Trial Transcript in U.S. v. Stambler, 11-CR-812 (JFB) at 753-757, 776-78 (11-CR-812, ECF No. 128-1) (an oxycodone distribution trial where Dr. Waldman testified regarding New York State and Federal regulations). In Belfiore, Judge Bianco gave the jury a limiting instruction with regard to this testimony. *Id.* at 337.

Accordingly, Defendant's motion is **DENIED**. However, the Court finds that is appropriate to give a limiting instruction prior to Dr. Waldman's testimony on this topic. The limiting instruction the Court intends to give to the jury is attached to this Order as an exhibit.

**SO ORDERED.**

Dated: September 20, 2021  
Central Islip, New York

/s/ (JMA)  
JOAN M. AZRACK  
UNITED STATES DISTRICT JUDGE